

Application No. 09/960,704
Amendment Dated November 5, 2003
Reply to Office Action of May 6, 2003

REMARKS

Claims 1-3, 5-54, 56-58 and 60-85 are pending in this application. By this Amendment, claims 60-85 are withdrawn from consideration, claims 4, 55 and 59 are cancelled without prejudice or disclaimer and claims 1, 5, 6, 11-20, 23-31, 33, 35, 37, 42-44, 52, 62-68 and 71-78 are amended. The amendments introduce no new matter. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

I. 35 U.S.C. §112, second paragraph

The Office Action rejects claims 1-59 under 35 U.S.C. §112, second paragraph. Claims 4, 55 and 59 have been cancelled without prejudice or disclaimer, therefore the rejection of these claims is moot. Applicants respectfully submit that the above amendments obviate this ground of rejection with respect to the remaining claims. Specifically, the claims have been amended to recite that the claimed method includes “reducing the temperature below ambient temperature.” Withdrawal of the rejection is respectfully requested.

II. Double Patenting

The Office Action rejects claims 5-58 on the grounds of obviousness-type double patenting over application 09/942,938. As application 09/942,938 has not been patented, Applicants respectfully submit that this is a provisional rejection and that Applicants may file a Terminal Disclaimer upon allowance of either this application or application 09/942,938.

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Applicants respectfully request the provisional obviousness-type double patenting rejection be stayed until the claims in question have been patented.

III. 35 U.S.C. §102(e)

The Office Action rejects claims 1-5, 8-15, 33-36, 40-41, 43, 46-47, 49-50, 54 and 55 under 35 U.S.C. §102(e) over Kent (U.S. Patent No. 6,171,549). Claims 4 and 55 have been cancelled without prejudice or disclaimer, therefore the rejection of these claims is moot. Since Kent fails to disclose all of the features of the remaining claims, the rejection is respectfully traversed.

Applicants respectfully submit that all pending claims ultimately depend from claim 1, which includes at least the features of reducing the temperature of a preparation of one or more glycosidases to a temperature below ambient temperature and irradiating said preparation. Kent clearly does not disclose a method comprising reducing the temperature of a preparation containing one or more digestive enzymes to a temperature below ambient temperature, as presently claimed.

The Kent reference does not disclose any reduction of temperature. Rather, only a single temperature of 23°C (ambient temperature) is disclosed in Kent. See column 4, line 66, for example. Therefore, the present claims are not anticipated by Kent.

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For at least the reasons discussed above, Applicants respectfully submits that claim 1 is allowable. Claims 2, 3, 5, 8-15, 33-36, 40-41, 43, 46-47, 49-50 and 54 depend from claim 1, and are allowable for at least the same reasons as claim 1. Withdrawal of the rejection is respectfully requested.

IV. 35 U.S.C. §103(a)

The Office Action rejects claims 1-59 under 35 U.S.C. §103(a) over Kent. Claims 4, 55 and 55 have been cancelled without prejudice or disclaimer, therefore the rejection of these claims is moot. Since Kent fails to disclose or suggest all of the features of the remaining claims, the rejection is respectfully traversed.

Applicants submit that claim 1 includes at least the feature of reducing the temperature of a preparation of one or more glycosidases below ambient temperature, which is not recognized as a result effective variable by Kent. As mentioned above, Kent does not disclose or suggest a method comprising reducing the temperature, nor does it suggest temperature as being result effective. Thus, the Kent reference does not disclose or suggest any reduction of temperature in any capacity. As mentioned above, only a single temperature of 23°C (ambient temperature) is disclosed in Kent. Therefore, the present claims are not rendered obvious by Kent.

Applicants respectfully submit that for the reasons discussed above with respect to Kent, Kent does not disclose or suggest all of the features of at least claim 1. Therefore, claim 1 is

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allowable. Claims 2-3, 5-54 and 56-58 depend from claim 1 and are allowable for at least the same reasons as claim 1. Withdrawal of the rejection is respectfully requested.

V. Information Disclosure Statements

Applicants note that copies of the 1449's associated with the Information Disclosure Statements filed on April 2, 2002, April 2, 2003 and September 29, 2003 were not received with the outstanding Office Action. Copies of the initialed and dated 1449's are respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, Laura L. Lee, at the telephone number listed below.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
FLESHNER & KIM, LLP



Donald R. McPhail
Registration No. 35,811
Timothy M. Speer
Registration No. 47,355
Laura L. Lee
Registration No. 48,752

P.O. Box 221200
Chantilly, VA 20153-1200
703 502-9440 DRM:TMS:LLL/knv
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